## REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks.

## I.      STATUS OF THE CLAIMS AND FORMAL MATTERS.

Claims 1-11 are pending. Claims 1, 3 and 4 are independent. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112.

## II.     REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-11 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,561,466 to Kiriyama (hereinafter, merely "Kiriyama") in view of Applicants' Admitted Prior Art, (hereinafter, merely "AAPA").

Claim 1 recites, *inter alia:*

"A data multiplexer...comprising:

an extracting means for **extracting access unit information** necessary for multiplexing processing from each of said plurality of bit streams;

a multiplexing means for performing time division multiplexing of said plurality of bit streams on the basis of a result calculated by said first calculating means,

**wherein said multiplexing means calculates an amount of available space in said buffers based on data size of said plurality of bit streams and outputs a result to said first calculation means, and**

**wherein said access unit information includes picture coding type, access unit length and decoding time**." (Emphasis added)

As understood by Applicants, Kiriyama relates to data multiplexing an original video signal and an original audio signal into a cell multiplexed video and audio signal, such as a sequence of asynchronous transfer mode (ATM) cells, and to data demultiplexing the cell multiplexed video and audio signal into the original video signal and the original audio signal.

Applicants respectfully submit that Kiriyama fails to teach or suggest the above-identified features of claim 1. Specifically, there is no teaching or suggestion of a data multiplexer comprising an <u>extracting means for extracting access unit information</u> necessary for multiplexing processing from each of said plurality of bit streams and a multiplexing means wherein said <u>multiplexing means calculates an amount of available space in said buffers based on data size of said plurality of bit streams and outputs a result to said first calculation means</u>, as recited in independent claim 1.

The Office Action concedes that Kiriyama does not disclose the above identified features. Further, the Office Action states that AAPA discloses the above identified features.

However, the relied on portion of AAPA merely discloses that "an access unit An(j) that has been present in the elementary stream buffer EB15 or the main buffer Bn8 longest of all access units buffered therein...and every stuffing byte preceding the access unit An(j) at a time tdn(j)...are instantly removed at the time tdn(j). The time tdn(j) is defined in a DTS (Decoding Time Stamp) or PTS (Presentation Time Stamp) field." The cited portion of AAPA does not teach or suggest that access unit information includes picture coding type, access unit length and decoding time.

Furthermore, Applicants respectfully submit that the combination is the result of improper hindsight using Applicants' claimed invention as a blueprint. There is no motivation, either in the references themselves, or from the knowledge of one of ordinary skill in the art, at

the time the invention was made, to combine the disclosure of Kiriyama with AAPA. The Office

Action states that the "suggestion/motivation would have been that Kiriyama disclosed the need

to find the buffer occupancy information (refer to Col 7, 8 and 9)." However, this is a mere wish

and hoped-for result, and there is no motivation found anywhere in the prior art of record.

Applicants respectfully request that the next Office Action particularly point out the motivation,

as required in a proper *prima-facie* rejection under 35 U.S.C. §103(a).

Therefore, Applicants submit that independent claim 1 is patentable.

For reasons similar to, or somewhat similar to, those described above with regard

to independent claim 1, independent claims 3 and 4 are also believed to be patentable.


## III.    DEPENDENT CLAIMS

The other claims are dependent from one of the independent claims, discussed

above, and are therefore believed patentable for at least the same reasons. Since each dependent

claim is also deemed to define an additional aspect of the invention, however, the individual

reconsideration of the patentability of each on its own merits is respectfully requested.
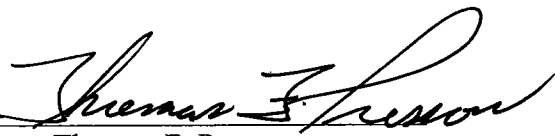

## CONCLUSION

In the event the Examiner disagrees with any of statements appearing above with

respect to the disclosure in the cited reference or references, it is respectfully requested that the

Examiner specifically indicate those portions of the reference, or references providing the basis

for a contrary view.

In view of the foregoing remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

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